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STATE OF DELAWARE

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Governor's Equal Employment Opportunity Council

MEETING MINUTES

MEETING DATE AND TIME:	Wednesday, February 1, 2017 at 9:00 a.m.
PLACE:	Haslet Building, Conference Room 219 122 Martin Luther King, Jr. Blvd, South, Dover, Delaware 19901
MINUTES APPROVED:	Approved

MEMBERS PRESENT:

James Collins, Council Chairman
Calvin Christopher, Council Member
Amy Bonner, Deputy Director Human Resource Management, (Ex-Officio)

MEMBERS ABSENT:

Mashoor Awad, Council Member
Gail Launay-Tarlecki, Council Member
Bernice Edwards, Council Member
David Mangler, Council Member

ADVISORS PRESENT:

Cynthia Fairwell, Advisor on Disability
Romona Fullman, Esquire, Human Relations Commission, Staff
Jane Hahn, Statewide Recruiter

STAFF PRESENT:

Sandy Reyes, Esquire, Council Staff
Denise Robbins, Council Staff
Joanna Carlson, Council Staff

PUBLIC PRESENT:

Dr. Patrice Gilliam-Johnson – DOL
Julie Petroff - DOL
Leon Tucker – DOL
Monica Gonzalez-Gillespie – OMB
Trudy Mifflin – OMB
Michelle Potter - OMB
Tamara Ben Addi – OMB
Bob Monti – DNREC
Deloris Hayes-Arrington – DOS
Lara Knight – DNG
Beverly Barr-Ford - DOC
Debbie Carey - DDA
Stacy Kincer – DSCYF
Julie Fedele – Leg Hall
Gary Smith – Ivy Planning Group
Janet Crenshaw-Smith – Ivy Planning Group

Dina Abercrombie – Ivy Planning group

1.0 Call to Order

Mr. Collins called the meeting to order at 9:05 am.

Mr. Collins welcomed OMB Labor Relations and Employment Practices Director, Monica Gonzalez-Gillespie.

Mr. Collins also welcomed Delaware Department of Labor's Cabinet Secretary, Dr. Patrice Gilliam-Johnson.

1.1 Review and Approval of September Minutes - Tabled

2.0 New Business

2.1 Presentation – OMB/HRM – Labor Relations and Employment Practices (“LREP”)

Per Epilogue language, Labor Relations and Employment Relations has the authority and responsibility to assist agencies and represent their position when a state employee files a DDOL or EEOC claim.

- Charging party has 300 days from the alleged unlawful employment practice to file a claim with the DDOL or EEOC.
- LREP receives the claim via email or electronic portal. LREP contacts the agency and asks for information and their position on the claim.
- DDOL has a 20-day response and the EEOC has a 30-day response deadline. It is because of this statutory deadline, that LREP provides a brief response denying the claim, to be followed by a more comprehensive one.
- A charging party can dually file a merit or contractual grievance and with the EEOC/DDOL. Typically, the grievance processes can be quicker.
- The agency is required to gather all pertinent information and send to OMB/LREP. LREP then poses additional questions, asks for more information from the agency, and requests for any other relevant documents to evaluate the case. LREP advises the agency but it is ultimately up to the agency decide whether to enter mediation, or an informal settlement.
- If Mediation is selected, LREP represents the Agency in settlement discussions.
- The State's comprehensive response includes a detailed narrative with relevant documents attached which may include policies, performance evaluations, discipline, emails and memos, many of which are confidential.
- The State submits 90% of comprehensive responses between 60 and 90 days, on average, from receipt. The Office of Anti-Discrimination (OAD) procedures allow for longer response time than the original deadline.
- DDOL issues Preliminary findings and recommendations, where they can dismiss the case, refer case to mediation, or refer to investigation.
- During the investigation, parties may attempt resolution, i.e. mediation or any other settlement means. LREP encourages agencies to come to a resolution prior to the formal finding.
- DDOL or EEOC issues final determination – either no cause with a right to sue letter or reasonable cause with mandatory conciliation.
- LREP encourages to find a resolution in spite of a no cause finding. LREP facilitates follow up with agency and employee at conciliation.
- State of Delaware is the largest state employer and LREP handles discrimination claims that can come from more than 13,000 state employees. On average, the total state discrimination claims total 55 claims per year, minus the school districts. Of these 55 claims, State settles 1 to 2 per year.
- On 95% of the State's claims, DDOL or EEOC finds no cause.
- DDOL finds reasonable cause in less than 5% of ALL employer claims. State claims are evaluated and determined equivalent to all other employers. Additionally, the EEOC has the same average. The [95%] are cases that do not rise to the legal definition of discrimination.
- DDOL received between 766 and 885 cases filed annually in each of the last 5 years. The State constitutes 6.27% of DDOL's total employer claims annually. The State is only a fraction of the total discrimination claims received by DDOL and EEOC.

- The State has other appeal procedures, contractual grievance process and merit grievance process, of which LREP handles at Step 3, in comparison to other employers. These other grievance processes come to a result before any EEOC finding. LREP assists agencies with resolution at lower levels, then we may not even see the grievance or complaint.
- LR has the authority to make recommendations to agencies although some may not follow. They still need to justify the reason behind non-compliance.

Employees need the support and resource to help them through the process of filing their claims. Employees need to be educated on what elements rise to the legal definition of discrimination. DDOL-OAD is working on being a resource for these employees by re-educating them. HR must also provide employees the best possible choices to allow for an equal and level playing field. It was suggested to reach out to Union leadership regarding discrimination issues.

2.2 Presentation – Ivy Planning Diversity and Inclusion Report

The study conducted shows that the State's capability to value diversity is there. The opportunity that faces the State as an employer now is moving forward beyond identification of the problem.

Ivy conducted 110 internal and external focus groups; 144 internal and external interviews; and an online survey. In the report, they have provided 40 recommendations with action items. Majority of State employee's value working for the State. The State's work to advance the rights of the LGBTQ community and recruiting and hiring people with disabilities demonstrates what is possible. OMB has looked into the specifics of what drives the employee life cycle statistics. The gaps and inconsistencies create the differences in each employee's State experience. D&I has not been a consistent practice and priority across all state Agencies however, there are leaders and teams who are developing and implementing D&I best practices. Human capital and D&I are not consistent priorities. Leaders, managers, and employees are not consistently held accountable. There is an inconsistent implementation of policies and procedures across state agencies.

Recruiting and Hiring:

- Increase use of analytics;
- Increase resources for stronger focus on recruitment;
- Conduct a review of existing job classification and job requirements to ensure that the state is measuring the real skills required;

Onboarding needs to be consistently applied across all department and divisions.

Performance Management:

- Create a culture where employees receive regular feedback to give them the tools to be successful;
- Engage employees in consistent informal feedback to set performance expectations
- Utilize technology to collect and monitor performance reviews;
- Scorecard – measuring things in short-term increments is an integral part of accountability.

Promotions and Reclassification needs to be clear how and why promotions are given. There are aspects of the process that may filter out diversity and not be inclusive.

Rewards and Recognition does not motivate inclusive behaviors and high performance from employees.

If there is any ambiguity in any type of policy or procedure, it typically results to perceived unfairness. By understanding the policies and procedures and having transparency is when we can start to have a breakthrough. Diversity and Inclusion needs to be an everyday thing and not just an HR thing. It requires a full-time focus.

Leaders must talk about the solutions and be intentional; they need to be future-focused and solutions-focused.

- 2.3 FY 2016 Agency EEO/AA Plans - Tabled**
- 3.0 Old Business**
- 3.1 GCEEO Combined Annual Report - Tabled**
- 4.0 Statewide Recruiter Updates - Tabled**
- 4.1 Next Meeting - Tabled**
- 4.2 Public Comment - None**

5.0 Adjournment

Mr. Collins adjourned the meeting at 11:45 am.

Respectfully submitted,
Denise Robbins